

ORIGINAL

Before the  
**Federal Communications Commission**  
Washington, D.C. 20554

JUN - 8 1999

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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In the Matter of ) MM Docket No. 99-123  
 ) RM-9502  
Amendment of Section 73.202(b) )  
(Table of Allotments) )  
FM Broadcast Stations )  
 )  
Royston and Commerce, Georgia )

To: Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau

**COMMENTS OF SOUTHERN BROADCASTING  
OF ATHENS, INC.**

Southern Broadcasting of Athens, Inc. ("Southern"), by its attorneys and pursuant to Sections 1.415 and 1.420 of the Commission's Rules hereby files its Comments on the *Notice of Proposed Rulemaking*, DA 99-727, released April 16, 1999 ("*NPRM*").

Comments are due by June 8, 1999, so these Comments are timely filed.

Southern is licensee of WPUP(FM), Channel 279C3, Royston, Georgia. The Commission has proposed to change the FM Table of Allotments by reallocating Channel 279C3 from Royston to Commerce, Georgia, and modifying the license of WPUP to specify Commerce as its new community of license. Southern herein incorporates by reference the factual statements made in Southern's Petition for Rule Making requesting this Commission action. As noted therein, Commerce, with a 1990 population of 4,108, is larger than Royston with a 1990 population of 2,758.

In the *NPRM*, the Commission stated its belief that Southern's petition warrants consideration. However, the Commission expressed its concern that a construction

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permit for Station WDDK(FM), Channel 280A, Greensboro, Georgia, is short-spaced 4.4 km to the current transmitter site for WPUP. As a result of that concern, Southern specified an alternate site that is fully spaced to WDDK.

The Commission rejected Southern's alternate site, and proposed a third site, located at North Latitude 34° 15' 07" and West Longitude 83° 29' 06" which the Commission says is the least restrictive site. Given that this site does not coincide with the existing site of Station WPUP, the Commission requested Southern to perform a gain and loss study as to the number of listeners who would be served by the new allotment and those who would lose the service provided from WPUP's current transmitter site.

In obedience to the Commission's directive, attached hereto is a technical exhibit consisting of visual plots showing the current WPUP 1 mV/m (60 dBu) contour, the 1 mV/m contour from the Commission's theoretical coordinates, and the overlapping gain and loss and the amount of population within each area. In summary, the technical exhibit shows that there are 285,675 persons within the theoretical contour, 161,029 persons within the current contour, and that the total population within the overlapping contours is 110,687. There would be a theoretical loss of 50,342 persons if WPUP were to operate from the Commission's theoretical site, and a gain of 174,998 persons. Such a net gain of population is clearly in the public interest. Although not requested in the *NPRM*, Southern also conducted a study of the loss area and determined that there are at least 15 FM aural services in the loss area. So the loss area continues to be "well-served."

In addition to the increased population that could be served by the reallocation, Southern's proposal will result in providing the larger community of Commerce its first local fulltime and first competitive service. Station WBIC(AM) would remain in

Royston so the reallocation of Channel 279C3 to Commerce would not result in removing from Royston its sole transmission service. Therefore, Southern's proposal is preferred under *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88, 92 (1982). The FM allotment priorities are (1) first fulltime aural service; (2) second fulltime aural service; (3) first local service; and (4) other public interest matters. Co-equal weight is given to priorities (2) and (3).

#### **Expression of Continued Interest**

Additionally, Southern states that if the Commission reallocates Channel 279C3 to Commerce, Southern will, within the time allotted after the effective date, file an application seeking a construction permit to operate WPUP on Channel 279C3 at Commerce, and upon grant of the application, Southern will construct and operate WPUP on Channel 279C3 at Commerce, Georgia.

WHEREFORE, Southern requests the Commission to reallocate Channel 279C3 from Royston to Commerce, Georgia, and modify the license of WPUP for operation on Channel 279C3 at Commerce.

Respectfully submitted,

**SOUTHERN BROADCASTING  
OF ATHENS, INC.**

By:

A handwritten signature in black ink, appearing to read 'Gary S. Smithwick', written over a horizontal line.

Gary S. Smithwick  
Its Attorney

**SMITHWICK & BELENDIUK, P.C.**  
1990 M Street, N.W., Suite 510  
Washington, D.C. 20036  
(202) 785-2800  
June 8, 1999

**WPUP (FM)**  
**Royston - Commerce, Georgia**  
**MM Docket No. 99-123**  
**RM - 9502**

**May, 1999**

The following technical exhibits, and population studies, have been prepared on behalf of Southern Broadcasting of Athens, Inc. at the request of the Commissions staff.

As a part of the Notice of Proposed Rulemaking, Released on April 16, 1999, The Commission has requested a gain and loss study as to the number of listeners who would be served by the new allotment and those who would lose service provided by WPUP's current transmitter site.

Attached are three visual plots. Exhibit-1 shows the present 1.0 mV/m (60 dBu) contour. Exhibit-2 shows the 1.0 mV/M (60 dBu) contour from the Commissions theoretical coordinates. Exhibit-3 shows the overlapping, gain, and lost coverage and the amount of population within each area. Below is an outline of Exhibit-3.

Total population within the theoretical contour = 285,675 persons.

Total population within the current contour = 161,029 persons.

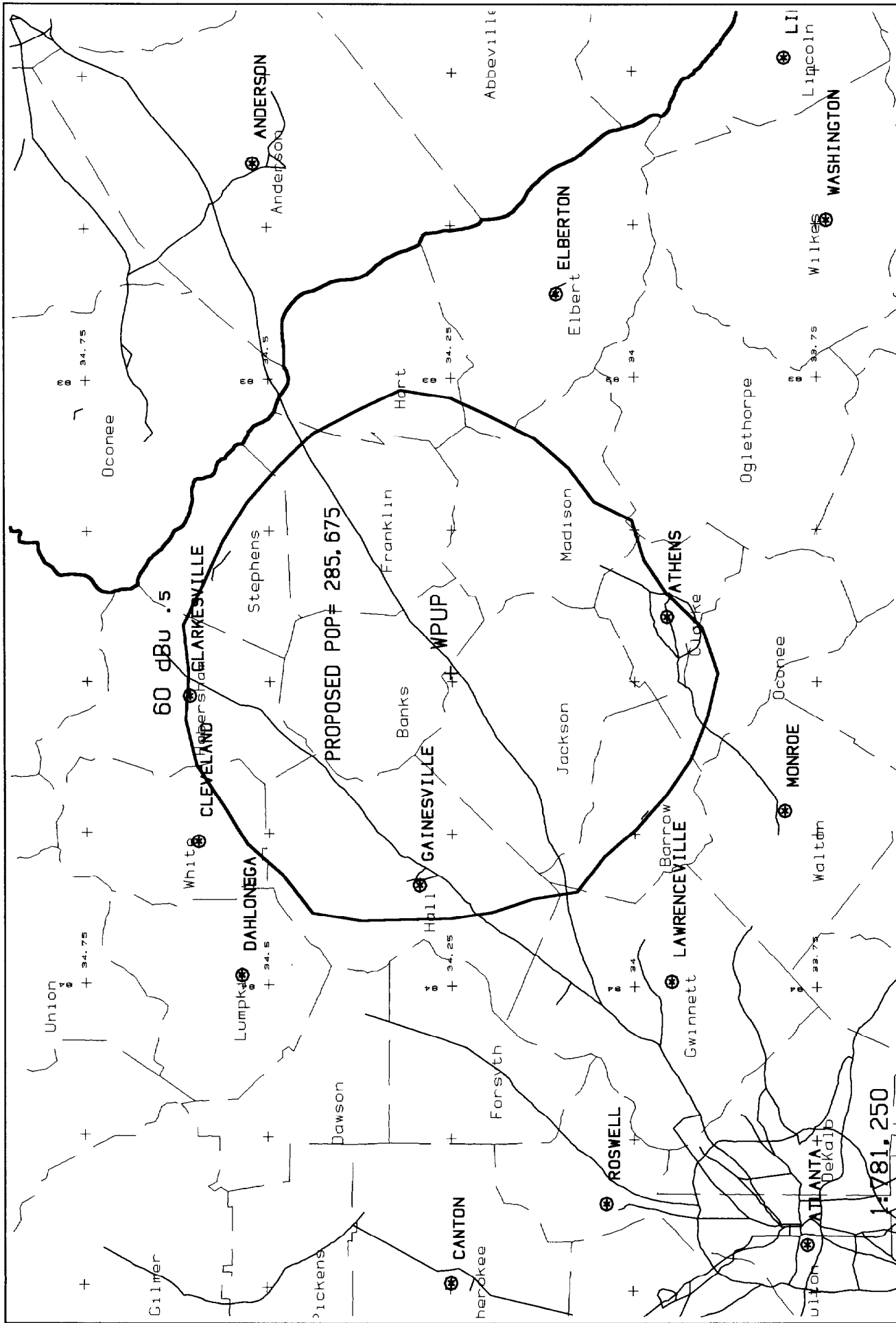
Total population within the overlapping contours = 110,687.

Total persons lost = 50,342 persons.

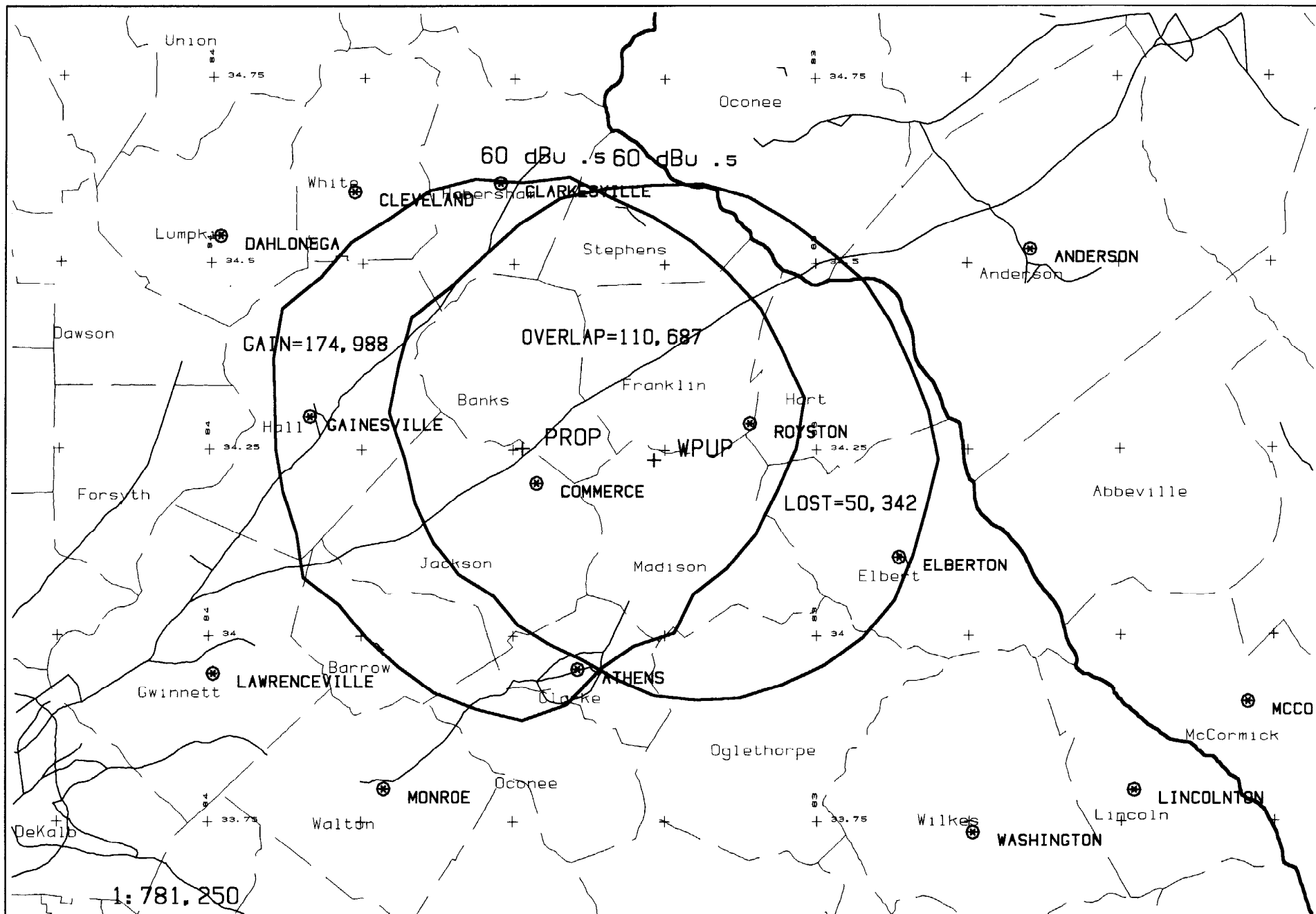
Total persons gained = 174,998 persons

Offered as exhibit 4 is a plot showing no less than 15 other FM stations serve the loss area effected by this proposal. Exhibit-4A is a tabulation of the plotted stations





<p>Scale in km</p> <p>0 10 20 30 40 50</p>	<p>WPUP 279C3 25kW 343.45M AMSL</p> <p>N. Lat. 34 15 07 W. Lng. 83 29 06</p>	<p>WPUP EXHIBIT-2</p> <p>POP FROM PROPOSED SITE</p>
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WPUP 279C3 25kW 336M AMSL  
N. Lat. 34 14 13 W. Lng. 83 16 03

WPUP EXHIBIT-3  
POP GAIN/LOST PLOT






Call	Coordinates	Dist.	Bear.	Chan.	Pwr.	City	State	File #
WALRFM	335156 834934	66	231.4	284C1	100	Athens	GA	BLH890707KA
WCONFM	343124 834046	49.4	310.2	257C2	19	Cornelia	GA	BLH891201KA
WEHR	335922 824623	53.2	121	286A	6	Elberton	GA	BLH980521KC
WFOX	340732 835132	55.9	257.3	246C	100	Gainesville	GA	BLH980825KB
WGMG	335518 831414	35.1	175.4	271C3	10	Crawford	GA	BLH960626KB
WJM2FM	344206 823620	79.7	49.4	297C	100	Anderson	SC	BLH790510AD
WMJE	342905 833824	43.9	309	275C3	16	Clarksville	GA	BLH920304KC
WMUUFM	345629 822441	110.8	44.8	233C	100	Greenville	SC	BLH6867
WNGC	340502 831918	17.7	196.3	238C	100	Athens	GA	BMLH930923KC
WPEK	344115 825913	56.2	27.1	251C	100	Seneca	SC	BLH980629KB
WROQ	343851 821613	102.3	63.2	266C	100	Anderson	SC	BLH870204LD
WSSLFM	343419 820641	112.6	70.3	263C	100	Gray Court	SC	BMLH930820KC
WSTEFM	344346 832929	58.4	339.5	291C	100	Toccoa	GA	BLH860610KA
WWRKFM	340145 825516	39.4	125.8	221A	3	Elberton	GA	BLH6027
WYAY	340732 835132	55.9	257.3	294C	100	Gainesville	GA	BLH970701KZ

Number in list= 15

EXHIBIT - 4A

FM FACILITIES WITHIN THE LOSS AREA

**EME**  PROFESSIONAL ENGINEERING SERVICES  
FOR THE PROFESSIONAL BROADCASTER  
**COMMUNICATIONS**

293 JC SAUNDERS ROAD  
MOULTREE, GEORGIA 31768  
(912)890-2506 (912)985-0864 Fax

**DECLARATION AND QUALIFICATION OF PREPARER**

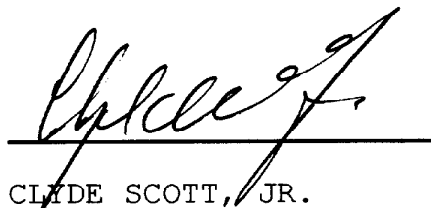
STATE OF GEORGIA )  
CITY OF MOULTRIE )  
COLQUITT COUNTY )

SS:

CLYDE SCOTT, JR. , UNDER PENALTY OF PERJURY, DECLARES AND SAYS  
HE IS A BROADCAST ENGINEER AND PRESIDENT OF EME COMMUNICATIONS.  
HE HAS BEEN ENGAGED TO PREPARE THE ATTACHED TECHNICAL EXHIBIT

THAT HIS QUALIFICATIONS ARE A MATTER OF RECORD BEFORE THE FEDERAL  
COMMUNICATIONS COMMISSION AND HAS BEEN ACTIVE IN THE BROADCAST  
INDUSTRY SINCE 1965 AND IN BROADCAST ENGINEERING SINCE 1972. THAT  
HE IS THE HOLDER OF GENERAL RADIOTELEPHONE LICENSE NO. PG-6-30133.

THAT THE ATTACHED TECHNICAL EXHIBIT WAS EITHER PREPARED BY HIM  
OR UNDER HIS DIRECT SUPERVISION. ALL MATERIAL AND EXHIBITS HERETO  
ARE BELIEVED TO BE TRUE AND CORRECT.



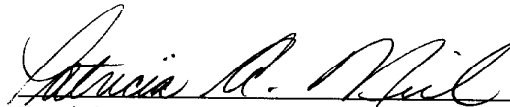
CLYDE SCOTT, JR.

MAY 19, 1999

**CERTIFICATE OF SERVICE**

I, Patricia A. Neil, a secretary in the law offices of Smithwick & Belendiuk, P.C., certify that on this 8th day of June, 1999, copies of the foregoing were hand delivered to the following:

Mr. J. Berton Withers, Jr.  
Federal Communications Commission  
The Portals II  
445 Twelfth Street, S.W.  
Room 3-A264  
Washington, D.C. 20554

  
Patricia A. Neil

(\*) By hand delivery